

DEPARTMENT OF THE NAVY
NAVY AND MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT

U N I T E D S T A T E S

v.

MICHAEL D. WILEY

XXX XX 9201

LANCE CORPORAL, USMC

SPECIAL COURT-MARTIAL

MEMORANDUM

OF

PRETRIAL AGREEMENT

I, Lance Corporal Michael D. Wiley, U.S. Marine Corps, the accused, hereby certify:

1. For good consideration and after consultation with my counsel, I agree to have this matter proceed to non-judicial punishment for the charge and specifications listed below, PROVIDED the convening authority agrees to withdraw the charge and specifications against me from the pending special court-martial.

2. I understand this offer and agreement cannot be used against me in the determination of my guilt on any matters arising from the charge and specifications made against me in this court-martial.

3. I understand that the jurisdictional limits on punishment at NJP by an officer in the grade of O-4 to O-6 for an enlisted Marine in the grade of E-3 are as follows: admonition or reprimand, forfeiture of one-half of one month's pay for 2 months, restriction for 60 days or Extra Punishment Duties for 45 days, reduction one pay grade.

4. I expressly understand that this pretrial agreement will become void in the event: (1) I refuse to have this matter decided at NJP for the charge and specifications listed below; or (2) if I am found guilty at NJP and prior to the time punishment is announced, I refuse NJP and demand trial by court-martial. I understand that if this agreement becomes null and void that the convening authority is free to withdraw the charge from NJP and again refer it to a court-martial.

5. My counsel, Major M. L. Marshall, has fully advised me of the meaning and effect of my decision to accept NJP, and I fully understand and comprehend the meaning thereof and all the attendant effects and consequences.

6. I am satisfied with my detailed defense counsel, Major M. L. Marshall, USMC, in all respects.

7. I agree to have this matter go forward at NJP for the following charge and specifications:

Charge: Violation of Article 92, UCMJ

Spec 1: In that Lance Corporal Michael D. Wiley, U.S. Marine Corps, Marine Fighter Attack Squadron 323, Marine Aircraft Group 11, Third Marine Aircraft Wing, Marine Corps Air Station Miramar, California, on active duty, did, at or near San Diego, California, between on or

about 1 December 2009 and on or about 1 May 2010, violate a lawful general order, to wit: Marine Corps Forces, Pacific Order 5355.2, dated 1 December 2009, by wrongfully using Spice, a prohibited substance.

Spec 2: In that Lance Corporal Michael D. Wiley, U.S. Marine Corps, Marine Fighter Attack Squadron 323, Marine Aircraft Group 11, Third Marine Aircraft Wing, Marine Corps Air Station Miramar, California, on active duty, did, on board Naval Air Station Fallon, Nevada, on or about 4 May 2010, violate a lawful general order, to wit: Marine Corps Forces, Pacific Order 5355.2, dated 1 December 2009, by wrongfully using Spice, a prohibited substance.

8. The convening authority in this case may award any lawful punishment, except as specifically limited below:

- a. **Reduction in rank:** May be approved as adjudged.
- b. **Restriction/extra duties:** May be approved as adjudged.
- c. **Forfeiture or Fines:** May be approved as adjudged.

10. It is expressly understood that I will not commit any act of misconduct chargeable under the Uniform Code of Military Justice between the date both parties have signed this agreement and the date of the NJP. Any UCMJ violation on my part after both parties sign this agreement and before the date of the NJP is held, will be grounds for withdrawal from this agreement by the convening authority.

11. I understand and agree that, in return for having this matter proceed at NJP, the withdrawn charge and specifications will be dismissed by the convening authority with prejudice.

12. I agree to waive any administrative discharge board, that is based on any act or omission reflected in the charge and specification that is the subject of this Agreement. I understand that any administrative discharge will be characterized in accordance with service regulations, and may be under other than honorable conditions. I fully understand the nature and purpose of an Administrative Discharge Board, and the rights that I would have at such a Board.

13. If I am provided a grant of testimonial immunity, I agree to testify truthfully if called as a witness in the case of United States v. LCpl A.V. Wylde. I further agree to fully and truthfully cooperate in the court-martial process, to include interviews with appropriate law enforcement authorities and the trial and defense counsel involved in the case, as well as any other reasonable request made of me.

14. There are no other agreements, oral or written, express or implied, between myself and the convening authority, or any other representative of the government, except those written and contained in this agreement.

M. L. Marshall 20100830
M. L. MARSHALL Date
Major
U.S. Marine Corps
Detailed Defense Counsel

Michael D. Wzley 20100730
MICHAEL D. WZLEY Date
Lance Corporal
U.S. Marine Corps
Accused

The foregoing agreement is approved.

Convening Authority: W. H. He ^{Lt. Col} OME Date: 20100910

